

United States District Court  
Eastern District of California

Richard Dennis Gamache,

Plaintiff, No. Civ. S 04-0859 RRB PAN P

vs. Order

Brett Williams, et al.,

Defendants.

-oOo-

Plaintiff is a state prisoner prosecuting a civil rights action without counsel.

In his December 14, 2004, amended complaint plaintiff names as defendants B. Williams, Galloway, Milliman, Todd, D. Williams, Goodnight, Wolfe, Smith and Friend. Plaintiff claims defendants violated plaintiff's constitutional violations in connection with medical treatment for hepatitis C virus (HCV) and seeks damages and mandatory injunctive relief including treatment with pegylated interferon with ribavirin.

1 Defendants B. Williams, Galloway, Milliman, Todd, D.  
2 Williams, and Smith answered June 6, 2005. Defendants Wolfe and  
3 Goodnight moved June 21, 2005, to dismiss. Plaintiff is  
4 attempting to locate defendant Friend and serve process upon him.

5 August 9, 2005, plaintiff moved for leave to file a second  
6 amended and supplemental complaint. Plaintiff's proposed  
7 pleading names additional defendants Punt, Cooper, Mitchell and  
8 Kanan as participants in the continued failure to provide  
9 appropriate care for plaintiff's liver disease. No one has  
10 opposed plaintiff's motion.

11 Leave to amend shall be freely given; whether to permit  
12 supplemental pleading is within this court's discretion. Fed. R.  
13 Civ. P. 15. Claims in the new pleading are closely related to  
14 those in prior pleading, and permitting plaintiff to pursue them  
15 in this action will promote efficiency and judicial economy and  
16 prejudice no one.

17 October 13, 2005, plaintiff moved to compel answers to  
18 interrogatories seeking information about the whereabouts of  
19 defendant Friend. Defendants opposed the motion on the grounds  
20 they do not have this information, obtaining it would violate  
21 Friend's privacy, and the discovery rules do not require them to  
22 conduct an investigation on plaintiff's behalf.

23 Where the information sought is not readily available to  
24 defendants and there is nothing to suggest they intend to use  
25 Friend to support their defenses, defendants' arguments are well  
26 taken. But see Fed. R. Civ. P. 26 (requiring disclosure of

1 addresses and telephone numbers of intended witnesses). However,  
2 if defendants have, or know where information for serving Friend  
3 may be obtained, they must give plaintiff that information.

4 Accordingly, the court hereby orders that:

5 1. Plaintiff's August 9, 2005, motion for leave to file a  
6 second amended and supplemental pleading is granted. The Clerk  
7 of the Court shall file plaintiff's proposed second amended and  
8 supplemental complaint.

9 2. Defendants B. Williams, Galloway, Milliman, Todd, D.  
10 Williams, Smith, Wolfe and Goodnight shall respond to the second  
11 amended and supplemental complaint within 30 days. The motion to  
12 dismiss by Wolfe and Goodnight is denied without prejudice as  
13 relating to a superseded pleading. They may renew arguments  
14 therein when responding to the new pleading.

15 3. Service is appropriate for defendants Punt, Cooper,  
16 Mitchell and Kanan.

17 4. The Clerk of the Court shall send plaintiff four USM-285  
18 forms, one summons, an instruction sheet and one copy of the  
19 second amended and supplemental complaint.

20 5. Within 30 days from service of this order, plaintiff  
21 shall complete the attached Notice of Submission of Documents and  
22 submit it to the court with the completed summons and USM-285  
23 forms and five copies of the second amended and supplemental  
24 complaint.

25 6. Upon receipt of the necessary materials, the court will  
26 direct the United States Marshal to serve defendants Punt,

1 Cooper, Mitchell and Kanan pursuant to Federal Rule of Civil  
2 Procedure 4 without payment of costs.

3       7. Plaintiff's October 13, 2005, motion to compel is  
4 granted in part. Defendants shall provide whatever information  
5 they have, or readily can obtain, for serving Friend within 10  
6 days. Time to provide information to serve defendant Friend is  
7 extended to March 30, 2006. By that date, plaintiff shall submit  
8 a USM-285 form and copy of the second amended and supplemental  
9 complaint for service on defendant Friend. To obtain Friend's  
10 address, plaintiff might consider serving subpoenas on Mule Creek  
11 State Prison or the Department of Corrections, see Fed. R. Civ.  
12 P. 45, or contacting the state medical licensing board.

Dated: January 24, 2006.

/s/ Peter A. Nowinski  
PETER A. NOWINSKI  
Magistrate Judge

United States District Court  
Eastern District of California

Richard Dennis Gamache,

Plaintiff,

No. Civ. S 04-0859 RRB PAN P

vs.

Notice of Submission of Documents

Brett Williams, et al.,

Defendants.

-oOo-

Plaintiff hereby submits the following documents in  
compliance with the court's order filed \_\_\_\_\_:

completed summons form

completed forms USM-285

copies of the \_\_\_\_\_  
Second Amended and Supplemental Complaint

Dated: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff